

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

TIMOTHY KINNER a/k/a
TIMMY KINNER,

Plaintiff,

VS.

TONY MOORE, ET AL.,

Defendants.

No. 15-2105-JDT-cgc

ORDER DISMISSING COMPLAINT,
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

On February 12, 2015, Plaintiff Timothy Kinner a/k/a Timmy Kinner, a prisoner acting *pro se*, filed a complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) At the time, Plaintiff was incarcerated at the Shelby County Correctional Center in Memphis, Tennessee. The Court subsequently dismissed portions of the complaint and directed the Clerk to issue process for eleven individual Defendants. (ECF No. 5.) The order of partial dismissal also directed Plaintiff to promptly notify the Court of any change of address and warned that failure to do so could result in dismissal of the action without further notice. (*Id.* at 26.) Thereafter, on June 6, 2016, Plaintiff notified the Court that he had been moved to the West Tennessee Detention Facility (“WTDF”) in Mason, Tennessee. (ECF No. 14.)

Seven of the Defendants were served and filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) on June 27, 2016. (ECF No. 16.) However, the process issued for the other four Defendants was returned unexecuted due to the lack of a first name. (ECF Nos. 9, 9-1,

9-2 & 9-3.) On September 19, 2016, the Court directed Plaintiff to provide further information to identify those four individuals within 30 days and warned that failure to do so would result in dismissal of his claims against them. (ECF No. 19.)

Plaintiff's copy of an order issued by the Court and sent to him at the WDTF was returned undeliverable on October 25, 2016. (ECF No. 23.)¹ On November 4, 2016, the order requiring Plaintiff to provide additional information to identify the unserved Defendants was also returned undeliverable. (ECF No. 24.) Both envelopes were marked "R.T.S.," "Not Deliverable as Addressed," and "Unable to Forward." (ECF No. 23 at 2; ECF No. 24 at 4.)

The most basic responsibility of a litigant is to keep the Court advised of his whereabouts. Plaintiff was directed to do so in the Court's April 8, 2016 order, but he has failed to submit any further change of address. Therefore, it appears Plaintiff has abandoned this action. Accordingly, this case is hereby DISMISSED pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply with the Court's order. The Defendants' motion to dismiss is MOOT.

It is also CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a), that any appeal in this matter by Plaintiff would not be taken in good faith. Leave to proceed on appeal *in forma pauperis* is, therefore, DENIED. The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

¹ The order granted a motion to withdraw filed by one of the Defendants' attorneys. (ECF Nos. 21 & 22.)